IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3136 OF 2003

IN

FIRST APPEAL STAMP NO. 27603 OF 2003

Gopal G. Patil ..Appellant

versus

Smt. Parvati G. Patil & Ors. ..Respondents

Mr. S. M. Kamble for the Appellant.

Mr. P. Patil for the Respondents No.1 to 4.

CORAM : D. G. DESHPANDE,J.

DATE : 20TH JULY,2005

P.C. :

1. Heard.

2. Civil Application is taken out for condonation of delay. Rule was issued in this matter. Respondent No.5 could not be served. Advocate for the appellant and respondent nos. 1 to 4 both state that the litigation pending before the trial court was in respect of respondent No.5 only. He was missing and not heard of within seven years, therefore a declaration of his civil death was

sought. As such it is impossible to serve him in this appeal or in this application. He never appeared before the trial court at any stage.

3. In view of this, no further notice to respondent No.5 is necessary. Other respondents are served. Delay is of 518 days. However, in the circumstances and for the explanation given, the delay is condoned subject to costs of Rs.1,500/- (Rupees One Thousand Five Hundred). Payment of cost condition precedent. Costs to be paid within three days. Put up appeal for admission after three weeks.

20.7.2005 (D.G. DESHPANDE, J.)